THIS IS APARTHEID

63

by

LESLIE RUBIN

who represents the Africans
of the Cape Province
(excluding the Transkei)
in the Senate

With a foreword

by

ALAN PATON

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FOREWORD

SENATOR LESLIE RUBIN'S pamphlet sets out to do one very simple thing; it does not try to say what apartheid is, nor to argue whether it is magnificently benevolent or unspeakably inhumane, nor whether it is evil or merely impossible. It merely gives forty examples of what it can do to human beings.

Senator Rubin nowhere states, such not being the purpose of his pamphlet, what apartheid actually is doing. It is therefore left for me to say that these things happen to human beings in South Africa, and further, that even where they do not happen, the threat of them hangs over those who are subject to these laws.

It has already happened in South Africa that an African lawyer has been admitted to the Bar as an advocate, but he has not been allowed under apartheid laws to have chambers in the city, and has been ordered to move into the "location", which is a special township set aside for African city dwellers, far from clients, far from courts, and altogether an impossible place for an advocate to make a living in (though of course it is expected by the theorists that in fifty or a hundred years' time things will be better). This particular advocate is Mr. Duma Nokwe of Johannesburg; his admission to the bar—the first African to achieve it—was featured by the South African Information Service. The refusal to let him have chambers in the city was however never mentioned.

Attorney C. M. Kobus has recently been ordered to move his practice from Cape Town city to the Langa location. In reply to representations made by his friends, the Secretary for Native Affairs replied that if Langa did not suit him, Attorney Kobus would find ample opportunity for service in the reserves.

I could give many examples of the indignities and injustices that are suffered by non-white people under the apartheid laws. I could tell of African landowners who have lost their freehold rights, and will get no others, because the land they owned has been declared to be "white". I could tell of Indian traders who have lost businesses more than fifty years old, because the area where they did business has been declared to be "white". I could tell of a man who lived as "white", and then was declared to be "coloured", who lost not only his job and his wife, but also his children, who fled from him in hatred and anger; yet they cannot really flee from him, for they are now "coloured" too.

One can hardly convey to others the grief and shame that one feels

over these laws; therefore one confines oneself to commending Senator Rubin's pamphlet, which states clearly what the laws can do. I hope this pamphlet will help to destroy the illusion that apartheid propagandists are trying to foster abroad, that apartheid is a noble ideal. No policy can be noble that cares so little for the hurts it inflicts upon persons. Our apartheid propagandists believe that God desires racial purity; I do not know about that, but I do know that God is a God of mercy. I leave it to the reader to decide if there is any mercy in these laws.

Senator Rubin is what is known as a *Native Representative*, that is, a white person elected by Africans to represent them in Parliament. Senator Rubin does not believe in this kind of representation, but he uses it because there is no other. His record as a defender of the defenceless, a speaker for the voiceless, a champion of the dignity and rights of man, is a proud one. In a thorough-going Nazi country, he would have been dead by now.

Of course Senator Rubin—and I too—will be accused of "blackening the name of our country abroad". The charge would be untrue. All we have done is to show how the name of our country has been blackened at home.

ALAN PATON

PREFACE

THE PURPOSE OF THIS pamphlet is to provide an authentic description of *apartheid* in simple terms. It contains a number of statements which set out and illustrate the effect of some of the laws passed by the present Government of South Africa since it came to power some ten years ago. A footnote refers to the specific provision in the law upon which each statement is based, but all comment (except when considered necessary to clarify a statement) has been deliberately excluded. The pamphlet is thus designed to *state* what our race laws *in fact are*, not to *argue* what they *should be*.

The list of laws referred to is by no means exhaustive. Many Acts of Parliament, proclamations and regulations have been omitted. Those included have been chosen by me, after very careful consideration, because I believe them to be the most important laws affecting (directly or indirectly) the civil rights of the non-White people of South Africa.

The volume of race legislation placed on the statute book in South Africa since 1948 is very large. Many of the Acts have been amended several times, contain complex and obscure provisions, and are expressed in tortuous language. These are reasons why the average South African (let alone the average person beyond our borders) might well be forgiven for deciding that the task of finding out what they mean is too difficult. But these are laws which determine the physical and spiritual quality of the daily lives of more than eleven million human beings. It is a task, therefore, which must be tackled if citizenship within South Africa is to be responsible, and criticism outside South Africa informed.

The forty statements in this pamphlet should help to lighten that task.

LESLIE RUBIN

Population of South Africa:

Total: 14.5×10^6

African	10.0		
White	3.0	Afrikaner	1.75
		English	1.25
Coloured	1.5	Indian	0.5

THIS IS APARTHEID

1

AN AFRICAN WHO WAS born in a town and lived there continuously for fifty years, but then left to reside elsewhere for any period, even two weeks, is not entitled, as of right, to return to the town where he was born and to remain there for more than seventy-two hours. If he does, he is guilty of a criminal offence punishable by a fine not exceeding ten pounds or, in default, imprisonment for a period not exceeding two months, unless he has obtained a permit to do so.

2

An African who, although not born there, has lived continuously in a town for fifty years and is still living there, loses his right to remain there for more than seventy-two hours if he commits a criminal offence for which he is sentenced to a fine exceeding fifty pounds.

3

An African who has lived continuously in a town for twenty years and is still living there, has no right to remain there for more than seventy-two hours, once he has accepted employment outside that town.

4

An African who has lived continuously in a town for fourteen years and still lives and works there, is not entitled as of right to remain there for more than seventy-two hours.

5

An African who has lived continuously in a town for nine years, is still living there, and has worked continuously throughout that period for one employer, is not entitled as of right to remain there for more than seventy-two hours.

1. Natives (Urban Areas Consolidation) Act No. 25 of 1945 as amended, Section 10 (1) (a). The same penalty applies in Nos. 2 to 8.

2. Natives (Urban Areas Consolidation) Act No. 25 of 1945 as amended, Section 10 (1) (b).

3. ibid. 4. ibid. 5. ibid.

6

An African who has, since birth, resided continuously in a town is not entitled, as of right, to have living with him in that town for more than seventy-two hours, a married daughter, a son who has reached the age of eighteen, a niece, a nephew or a grandchild.

7

If an African, born in a town, has lived there continuously for fifty years, no friend of his who is an African is entitled as of right to visit and remain with him for more than seventy-two hours.

8

If an African was born in a town, has lived there continuously for fourteen years, and has, during that period, worked continuously for one employer for nine years, neither his wife, his unmarried daughter or his son aged eighteen (although each is completely dependent upon him) is entitled, as of right, to live with him for more than seventy-two hours.

9

Whenever the Governor-General (who acts on the advice of the Cabinet, which is, in turn, advised by the Minister of Native Affairs) in his unfettered discretion deems it fit to issue the necessary proclamation, an African who has been required by an order of Court to leave a certain area must do so, and no Court of law may grant an interdict preventing such removal, nor may appeal or review proceedings stay or suspend such removal, *even when it has been established beyond all doubt that the order of Court was intended for some other person and was served upon him in error.*

Any person who is not an African would, in precisely the same circumstances, be granted an interdict or a stay or suspension of the removal order and would, therefore, not be obliged to leave the area.

6. Natives etc. Act No. 25 of 1945 as amended, Section 10 (1) (a) and (c).
7. ibid.
8. Natives etc. Act No. 25 of 1945 as amended, Section 10 (1) (a), (b) and (c).
9. Natives (Prohibition of Interdicts) Act No. 64 of 1956.

10

It is unlawful for a White person and a non-White person to drink a cup of tea together in a tea room anywhere in South Africa, unless they have obtained a special permit to do so.

11

Unless he has obtained a special permit, an African professor delivering a lecture at a White club commits a criminal offence.

12

No African is entitled as of right to acquire freehold title to land anywhere in South Africa, nor is it the intention of the present Government ever to grant such right to the African, even in his own Reserves.

13

If an African, ordered to leave an area, refuses to comply with the order, the Governor-General has an unfettered discretion to order that, without trial in a Court of law or further investigation of any kind, he be summarily arrested, detained and removed from that area.

14

Any policeman is entitled, without warrant, to enter and search, "at any reasonable time of the day or night", premises in a town on which he has reason to suspect that an African boy eighteen years of age is committing the criminal offence of residing with his father without having the necessary permission to do so.

10. Proclamation No. 333 dated 1 November 1957 issued pursuant to Section 1(4), read with Section 1(1) (vi) of the Group Areas Act No. 77 of 1957.

11. ibid.

12. Natives Land Act No. 27 of 1913; Natives (Urban Areas Consolidation) Act No. 25 of 1945 as amended, Section 6; Government White Paper on the Tomlinson Report, U.G. No. 61 of 1955.

13. Native Administration Act No. 38 of 1927, as amended, Section 5 (1) (b). The decision of the Governor-General is in fact the decision of the Cabinet acting on the advice of the Minister of Native Affairs.

14. G.N. No. 804 dated 13 June 1958 read with Act No. 25 of 1945 as amended, Section 10 (1) (c).

15

In a township established for occupation by Africans in 1957, any policeman may, whenever he wishes, for any reason whatsoever, to inspect the dwelling occupied by a resident of the township, enter that dwelling at any time of the day or night.

16

If an African recruited by a labour agent has undertaken to enter the service of any unspecified member of a group of employers by whom such labour agent is employed, but hereafter refuses to enter the service of the employer to whom he has been allotted, he is guilty of a criminal offence punishable by a fine not exceeding ten pounds or, in default, imprisonment for a period not exceeding two months.

17

A Bantu Tribal Authority consists of a Chief or headman and a number of councillors. The Minister of Native Affairs may, at any time, depose any Chief or headman, and cancel the appointment of any councillor. The Native Commissioner may veto the appointment of any person appointed as a councillor by the Chief or headman. The Minister and a number of White officials may, whenever they choose to do so, attend any meeting of any Bantu Tribal Authority and take part in the deliberations. A commissioned police officer may attend whenever he pleases; an ordinary policeman, when he has been duly instructed by a commissioned police officer.

18

A White person living in a town who employs an African to do any carpentry, bricklaying, electrical fitting or other skilled work in his

15. G.N. 61 of 1958 Section 8. Evaton Native Township.

16. Native Labour Regulation Act No. 15 of 1911 as amended, Section 12.

17. Bantu Authorities Act No. 68 of 1951 Sections 2-4; Proclamation No. 180 of 1956 Sections 11 (5), 13 (2) and (4) and 16, G.N. No. 5955 dated 11 October 1957 Regulation No. 6.

The Bantu Authorities Act was described by Dr. Verwoerd as a law which would make possible "Bantu control over Bantu areas" and ensure the "restoration of the natural native democracy".

18. Native Building Workers Act No. 27 of 1951 as amended, Sections 15 and 19.

home, commits a criminal offence unless special exemption has been granted by the Minister of Labour; so also does any African who performs such skilled work in a town elsewhere than in an Area set aside for occupation by Africans. Each is liable to a fine not exceeding one hundred pounds, or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment.

19

A White person living in a town employs an African who has resided there continuously for fourteen years but has not been granted permission to seek or take up employment in that town. The employer has committed a criminal offence and is liable, on a first conviction, to a fine not exceeding ten pounds or, in default, to imprisonment for a period not exceeding two months, to both such fine and imprisonment, or to such imprisonment without the option of a fine, and, on a second or subsequent conviction, to a fine not exceeding twenty-five pounds, or, in default of payment, to imprisonment for a period not exceeding three months, to both such fine and and imprisonment, or to such imprisonment without the option of a fine.

20

An African who has been convicted of the offence of being in a town unlawfully may be removed, in the sole discretion of a Magistrate or a Native Commissioner, to his home or his last place of residence, no matter how many years have elapsed since he was at either, or to any rural village.

21

An African, born in Southern Rhodesia, who has lived in the Union for fifty years, may not enter a district for the purpose of visiting a friend, even for twenty-four hours, without the permission of a Native Commissioner.

19. Natives (Urban Areas Consolidation) Act No. 25 of 1945 as amended Sections 10bis and 44.

20. do. Section 14.

21. Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 as amended, Section 18.

22

Any policeman may at any time call upon an African who has attained the age of sixteen years to produce his reference book. If a reference book has been issued to him but he fails to produce it because it is not in his possession at the time, he commits a criminal offence and is liable to a fine not exceeding ten pounds or imprisonment for a period not exceeding one month.

23

The Minister of Native Affairs may, at any time, and without being required to give any reason for doing so, withdraw any subsidy previously granted by him to a school maintained by an African tribe or community.

24

No school for the education of African children may be conducted by a church, unless the school is registered, and the Minister of Native Affairs has an unfettered discretion to refuse to register it if he believes that the establishment of such a school is not in the interests of the African people.

25

If an Indian (or a Coloured or an African) sits on a bench in a public park, the bench being set apart for the exclusive use of White persons, by way of protest against the apartheid laws, he commits a criminal offence and is liable to a fine not exceeding three hundred pounds, or to imprisonment for a period not exceeding three years, or to a whipping not exceeding ten strokes, or to both such fine and such imprisonment, or to both such fine and such whipping, or to both such imprisonment and such whipping.

26

If a speaker, while addressing a meeting, says something which causes a Coloured (or African or Indian) member of his audience to

22. do. Sections 13 and 15.

23. Bantu Education Act No. 47 of 1953 as amended, Section 6.

24. do. Section 9.

25. Criminal Law Amendment Act No. 8 of 1953, Section 1, read with Act No. 49 of 1953 Section 2 (2).

26. do. Section 2, do.

use a counter in the post office reserved for the exclusive use of White persons, by way of protest against the apartheid laws, such speaker commits a criminal offence and is liable to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding five years or to a whipping not exceeding ten strokes or to both such fine and such imprisonment, or to both such fine and such whipping or to both such imprisonment and such whipping; and in the case of a second or subsequent conviction the Court may not impose only a fine but is obliged to sentence him to imprisonment or to a whipping.

27

If a person contributes money to a fund established to finance a campaign against the apartheid laws, the campaign being conducted by means of unlawful use by non-Whites of premises set aside for the exclusive use of Whites, that person commits a criminal offence and is liable to the punishment described in No. 26.

The person receiving the money is liable to the same punishment, and the Court may, in addition, confiscate the money if it is found in his possession.

If the money is contained in a letter, the letter may be opened by the Postmaster General and the money shall be forfeited to the State.

The Minister of Justice may, in addition, by addressing a notice to him, prohibit such person, once he has been convicted, from being in any area for any period. If he fails to comply with the notice he commits a criminal offence, is liable to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment, and may, in addition, be removed from the area by a policeman. These penalties apply also to the offender in Nos. 25 and 26.

Where the offender has been sentenced to pay a fine, even with an alternative of imprisonment, unless the fine has been paid within forty-eight hours, the amount can be levied by the attachment and sale of any moveable (or, if insufficient, immoveable) property belonging to him. This applies also to the offender in Nos. 25 and 26.

If he is not a South African citizen by birth or descent and is deemed by the Governor-General to be an undesirable inhabitant of the Union, he may be deported. This applies also to the offender in No. 26.

27. do. Sections 3, 6, 8, 9, 10, do. The decision of the Governor-General is in fact the decision of the Cabinet acting on the advice of the Minister of Justice.

28

It is unlawful for an African worker to take part in a strike. If he does so he is liable, on conviction, to a fine not exceeding five hundred pounds, imprisonment for a period not exceeding three years, or both such fine and imprisonment.

29

The Governor-General (in special circumstances, the Minister of Justice) may, if he is of the opinion that the safety of the public is seriously threatened and that the ordinary law of the land is inadequate, by proclamation, empower any police constable to arrest any person and imprison him without a trial.

30

If there is only one waiting-room on a railway station, it is lawful for the station master to reserve that waiting-room for the exclusive use of White persons, and any non-White person wilfully entering it commits a criminal offence and is liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

31

Any policeman may, without warrant, enter premises in which a meeting is taking place, if he believes, on reasonable grounds, that the internal security of the Union is likely to be endangered as a result of the meeting, and that obtaining a warrant would cause serious delay.

32

The Minister of Native Affairs may, provided that the urban local authority concurs, by notice in the Gazette, prohibit the attendance of Africans at a Church service in a town, if it is, in his opinion, undesirable that Africans should be present in the Church in the numbers in which they ordinarily attend that service.

28. Native Labour (Settlement of Disputes) Act No. 48 of 1953, Section 18.

29. Public Safety Act No. 3 of 1953, Sections 2, 3 and 4. The decision of the Governor-General is in fact the decision of the Cabinet acting on the advice of the Minister of Justice.

30. Reservation of Separate Amenities Act No. 49 of 1953, Sections 2 and 3.

31. Criminal Procedure Act No. 56 of 1955, Section 44.

32. Natives (Urban Areas) Act No. 25 of 1945, as amended, Section 9 (7) (b).

33

Any person who conducts a hospital which was established in a town after 1937, and, without having obtained the permission of the Minister of Native Affairs, except in the event of an emergency, admits an African to it, commits a criminal offence.

34

The Minister of Native Affairs may, unless the local authority objects, by notice in the Gazette, prohibit a social gathering in a private home in a town, at which an African is present, if, in his opinion, such gathering is undesirable having regard to the locality in which the house is situated. Any African attending such a gathering is guilty of an offence and liable to a fine not exceeding ten pounds or to imprisonment not exceeding two months or to both such fine and such imprisonment.

35

It is unlawful for an African, at any time, to visit his friend working on premises in a town without the permission of the owner or lawful occupier of the premises.

36

A Group Areas inspector may, for the purpose of ascertaining whether a non-White person is occupying premises in a White group area, without previous notice, enter such premises at any time during the day or night, and put questions to any person found by him on such premises.

37

No African, lawfully residing in a town by virtue of a permit issued to him, is entitled, as of right, to have his wife and children residing with him.

33. do. Section 9 (7) (c).
34. do. Section 9 (7) (f).
35. Natives (Urban Areas) Act No. 25 of 1945, as amended, Section 9 (9).
36. Group Areas Act No. 77 of 1957, Section 39 (2) (a) and (d).
37. Natives (Urban Areas Consolidation) Act No. 25 of 1945 as amended, Section 10 (1).

38

The register of the population of the Union contains the names of South African citizens whose names must be classified by the Director of Census or his deputy as a White person (which means "a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person"), an African (which means "a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa"), or a Coloured person (which means "a person who is not a white person or an African"), as the case may be.

39

Twenty-five years after a person has been classified in the population register as a white person, and has been issued with an identity card showing that classification, any other person may object to such classification on the ground that such person is generally accepted as a coloured person. The objection must be referred to a board whose decision is final and binding, but if the objection has been sustained, the aggrieved person is entitled to appeal against the decision to the Supreme Court.

40

Any unmarried man who "in appearance obviously is or who by general acceptance and repute is a white person" and who attempts to have carnal intercourse with a woman who is not "obviously in appearance or by general acceptance and repute a white person", is guilty of an offence and liable on conviction to imprisonment with compulsory labour for a period not exceeding seven years, unless he can prove to the satisfaction of the court that he had reasonable cause to believe, at the time when the alleged offence was committed, that she was "obviously in appearance or by general acceptance and repute a white person".

38. Population Registration Act No. 30 of 1950, Section 5.
39. do. Section 11 read with Section 13.
40. The Immorality Act No. 23 of 1957, Sections 16, 22 and 1.